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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,692

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Thomas W. Melcher

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Robert D. Atkins

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EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

NOTIFICATION DATE

DELIVERY MODE

04/01/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

main@plgaz.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/577,692	<b>Applicant(s)</b> MELCHER, THOMAS W.	
	<b>Examiner</b> Eric Culbreth	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/29/20, 11/13/09, 5/12/08, 11/13/07, 4/11/07.</u>            | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because of the following informalities. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

- a. Line 4A-4A is not in Figure 3A (page 9, line 2).
- b. Figure 4B's description on page 9 states that the figure is an alternative to Figure 4A, but line 4B-4B is in Figure 4A (how can it be an alternative if it is part of the view?).
- c. Section line 4E-4E is not in Figure 4A (page 10, line 4; page 22, line 6).

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- d. There is no description of Figure 9c in the Brief Description of the Drawings.
- e. There is no Figure 2F (page 11, line 1).
- f. Reference numerals 33, 34 are not on the drawings, at least not in Figure 2A (page 12, line 9 and the remainder of the specification).
- g. There is no Figure 2 (page 12, line 15; there are Figures 2A and 2B).
- h. Page 12, lines 15-17 make no sense (since there is no Figure 2, and no reference numeral 34 on the drawings, there is no figure that shows lean, etc.).
- i. Contrary to page 12, lines 19-21, actuator 39 does not connect inboard ends of arm 35 and upper control arm 36 in Figure 2A.
- j. Page 12, lines 23-24 are not clear because there is no reference numeral 34 on the drawings.
- k. Comparing Figures 2A and 3A, the central beam of arm 35 goes into housing 57 in Figure 2A but goes beside it in Figure 3A.
- l. Noting page 13, lines 29-30, since there is no Figure 2, it is not seen that the connection 75 is above arm 36.
- m. Reference numeral 84 appears twice in Figure 3B; apparently, reference numeral 63 in Figure 3B should be 84, and 85 is not on the drawings (page 15, lines 18-24; generally, this text should be carefully rewritten with the drawings changed to agree with the text).
- n. Neither occurrence of reference numeral 84 in Figure 3B agrees with reference numeral 84 in Figure 4A.

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- o. The section line 4B-4B at the bottom of Figure 4A is not the view of Figure 4B.
- p. Reference numeral 95 (page 16, line 3) is not on the drawings.
- q. Figure 6 is confusing because reference numeral 23 is not shown in Figure 6 (page 23, lines 10-23).
- r. Reference numeral 225 (page 24, line 1) is not on the drawings.
- s. Reference numeral 269 (page 25, line 14 and the remainder of the specification) is not on the drawings.
- t. Reference numeral 272 is not on the drawings (page 25, line 26 and the remainder of the specification).
- u. Reference numeral 346 is not on the drawings (page 36, line 17).

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims

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are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-25 have been renumbered 24-48.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 24-48 and 44-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claims 24 and 32 at least are not accurate in reciting the actuator arm pivotally connected to the lower arm.
- b. Claim 25 does not end with a period.
- c. In claim 44 “similar” is indefinite (how close do they have to be to meet the limitations).
- d. In claims 46-48, it is not clear what is meant by “effective”.
- e. Also, claims 46-48 would not appear to be accurate because volume in the shock absorber never changes (when it increases on one side, it decreases on another).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 24, 29, 32, 36 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Orton US005324056A.

Orton discloses a vehicle suspension having a lower arm 14 with inboard and outboard ends, upper control arm 22 with inboard and outboard ends, and an actuator comprising a drive mechanism at 35 and at least one actuator arm at 30. The actuator arm at 30 is pivotally connected to the upper control arm 22 with the drive mechanism 35 connected to actuator arm 30. As the limitations in claims 24 and 32 of the actuator arm pivotally connected to the lower arm are not accurate to the invention, Orton meets the positive limitations of the claims. Orton includes frame 11 along with the suspension (claim 32). As best understood, a similar lower arm, upper arm and actuator arm are on the other side of the vehicle (claim 44). Regarding claims 29 and 36, mechanical link 37 is pivotally connected to the actuator arm.

***Allowable Subject Matter***

8. Claims 26-28, 30-31 and 33-35 and 37-48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Culbreth  
Primary Examiner  
Art Unit 3616

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